

Remarks

Claims 1-19, 22, and 25 are currently pending and stand rejected under 35 USC 103(a). Applicants assert that the claims are in condition for allowance as set forth more fully below.

103 Rejections

Claims 1-4, 7-13, 16-19, 22, and 25 are rejected under 35 USC 103(a) as being unpatentable over Rutkowski (US Pat 5,826,270) in view of Hendricks (US Pat 6,539,548). Rutkowski fails to disclose the computer selecting one or more items corresponding to the received customer type from a set of items, instructions that provide a list of the one or more selected items, and instructions that receive a selection corresponding to the received request from the customer from the one or more items as recited in claims 1 and 11. The Office Action concedes that Rutkowski fails to disclose selecting by the computer one or more items corresponding to customer type from a set of items. However, the Examiner has stated that Hendricks discloses displaying a list of products available automatically based on the customer type for the benefit of making the user interface friendly and offer a significant number of choices. Without conceding that there is motivation to modify Rutkowski based on the disclosure of Hendricks, Applicants assert that such a combination fails to render the claims obvious because the combination fails to address all of the elements of the claims.

Specifically, the statement regarding what Hendricks discloses is not correct. Hendricks discloses a record of a customer maintained in a database for purposes of determining demographics for marketing purposes at col. 26-col. 27. At no point within the cited portion of Hendricks or otherwise does Hendricks state that options are provided for selection based on customer type. Instead, the database is for generating marketing efforts to cable customers based on the collected demographic information. The customer is not being offered a selection via a menu based on the customer type. Regarding the display of menus that do provide options for selection by the customer as discussed in column 33 and thereafter, this display is unrelated to the cable tier of the database being used for the marketing efforts. At no point is the menu said to include items for selection by the customer where the items are based on the customer type, such

as the cable tier. To the contrary, the discussion provides that the menu itself offers the different cable tiers for selection, such as basic, basic plus, etc., all on the same menu where each is assigned a different color at col. 35, lines 29-36. Furthermore, the only discussion of customization based on the subscriber is in relation to how the date and time is displayed, such as military time versus standard as discussed at col. 34, lines 60 and thereafter, rather than any customization of the selection being offered.

For at least these reasons, Hendricks fails to address the deficiencies of Rutkowski, including those conceded by the Office Action and others. Accordingly, claims 1 and 11 are allowable over the cited combination for at least these same reasons. The remaining dependent claims depend from an allowable claim 1 or 11 and are also allowable for at least the same reasons.


Conclusion

Applicants assert that the application including claims 1-19, 22, and 25 is now in condition for allowance. Applicants request reconsideration in view of the amendments and remarks above and further request that a Notice of Allowability be provided. Should the Examiner have any questions, please contact the undersigned.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

Date: October 6, 2005


Jeramie J. Keys
Reg. No. 42,724

Withers & Keys, LLC
P.O. Box 71355
Marietta, Ga 30007-1355
(404) 849.2093